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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 15, 2001

APPLICATION OF

ACN ENERGY, INC.

CASE NO. PUE010361

For a license to conduct
business as a competitive
service provider in a natural gas
retail access programs

ORDER

On June 25, 2001, ACN Energy, Inc. ("ACN" or "the Company"), filed an application for a license to conduct business as a competitive service provider in Washington Gas Light's ("WGL") natural gas retail access pilot program. The Company noted that it planned to serve residential customers participating in WGL's retail access program.

On August 31, 2001, the Commission Staff filed a Report concerning ACN's request for a license to serve residential customers in WGL's service territory. In its Report, the Staff recommended the granting of a license to serve residential customers. However, the Staff noted that if ACN later applied to serve additional customer classes or expanded service territories its financial fitness should be re-examined.

By Commission Order dated September 13, 2001, ACN was granted license No. G-2 to provide competitive natural gas service to residential customers in conjunction with WGL's retail access program.

On October 1, 2001, ACN filed a Petition for Limited Reconsideration ("Petition") requesting that the September 13, 2001, Order Granting License be amended to allow ACN to also provide natural gas to small commercial customers in addition to the residential customers already authorized by the September 13, 2001 Order. ACN asserted in its filing that it meets the technical and financial requirements to provide natural gas service to small commercial customers in Virginia. The Commission determined that this request should be treated as a new application.

On October 16, 2001, the Commission issued an Order for Notice and Comment to allow interested parties and Staff the opportunity to comment on ACN's request for a modification of its license. On November 7, 2001, the Staff filed its second Staff report. In the report, the Staff noted that there had been no comments from interested parties. The Staff reviewed the financial information filed by ACN and concluded that, due to the lack of audited financial information for ACN and in light of its request for an additional customer class, it is

appropriate to require some form of security from the Company at this time.

The Company filed a response to the second Staff report on November 9, 2001. In its response, ACN stated that it accepted the Staff recommendation that its license be modified conditioned upon providing the Commission with an acceptable form of financial security.

It is our understanding that the Staff and ACN have discussed an appropriate form of financial security. However, at this time, the instrument has not been filed with this Commission.

NOW UPON CONSIDERATION of the request for a modification, the second Staff report, and the applicable law, we note that §56-235.8 F 1 of the Code of Virginia states that, "[a] gas supplier license shall be issued to any qualified applicant within forty-five days of the date of filing such application, authorizing in whole or in part the service covered by the application, unless the Commission determines otherwise for good cause shown." Based upon this forty-five day time limit, we must issue a gas license to ACN by November 15, 2001, provided we find ACN to be qualified. As noted earlier, in its initial report and second report, our Staff found the Company to be technically qualified but recommended conditioning the granting of the modified license on the provision of some form of

financial security. However, as noted above, such an instrument has not yet been filed. Consequently, the Commission finds that, at this time, ACN is not a qualified applicant with respect to its request to serve commercial customers solely because of the financial fitness status. Therefore, we will defer any further action in this matter until we have received an acceptable form of security from the Company.

Accordingly, IT IS ORDERED THAT:

(1) Consideration of this matter shall be continued until the Company filed an acceptable form of security to ensure its financial responsibility in providing the services for which an application has been filed.